

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 11th day of August 2016, at 7:00 P.M., and there were

PRESENT:

DANIEL BEUTLER, MEMBER

JOHN BRUSO, MEMBER

JILL MONACELLI, MEMBER

JAMES PERRY, MEMBER

LAWRENCE PIGNATARO, MEMBER

FRANK SWIGONSKI, MEMBER

RICHARD QUINN, CHAIRMAN

ABSENT: NONE

ALSO PRESENT: DIANE M. TERRNOVA, TOWN CLERK

KEVIN LOFTUS, TOWN ATTORNEY

MATTHEW FISCHIONE, CODE ENFORCEMENT OFFICER

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF: DAVID/SUSAN CHAVES

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of David/Susan Chaves, 3670 Bowen Road, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a 1344 square foot pole barn on premises owned by the petitioners at 3670 Bowen Rd., Lancaster New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 1344 square feet.

Chapter 50, Zoning, Section 9D (4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioners, therefore, request a 594 square foot accessory use area variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

David Chaves, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF DAVID/SUSAN CHAVES

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PERRY, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of David/Susan Chaves and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of August 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Agricultural Residential District (AR) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has not commented.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

August 11, 2016

PETITION OF: WILCOX BROTHERS SIGN COMPANY

THE 2ND CASE considered by the zoning board of appeals was that of the petition of Wilcox Brothers Sign Company, 317 Wheeler Street, Tonawanda, New York 14150 for one variance for the purpose of erecting one [1] ground sign on premises owned by Rane Property Management at 1325 Millersport Highway, Suite 209, Williamsville, New York 14221, at 5354 Genesee Street, Lancaster, NY to wit:

A variance from the requirements of Chapter 50, Zoning Section 30F.(2)(c)[2][a] of the Code of the Town of Lancaster to permit a sign height of seven [7'] feet six [6"] inches.

Chapter 50, Zoning, Section 30F.(2)(c)[2][a] of the Code of the Town of Lancaster limits the height of a ground sign to four [4'] feet above finished grade. The petitioner, therefore, requests a three [3'] foot six [6"] inch ground sign height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Corey Auerbach, Esq., Representing Petitioner Barclay Damon LLP	Proponent
John Wilcox, Wilcox Brothers Sign Co., Petitioner	Proponent
Paul Zaborowski	Opponent
Thomas Kaufman	Opponent

IN THE MATTER OF THE PETITION OF: WILCOX BROTHERS SIGN COMPANY

THE FOLLOWING RESOLUTION WAS OFFERED
BY MS. MONACELLI, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Wilcox Brothers Sign Company and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of August 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the duly authorized agent of the property owner.

WHEREAS, the property for which the applicants are petitioning is within a Multi-family Residential District 4, (MFRD-4) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following conditions which in the opinion of this board are an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- Temporary sign is removed and not replaced.
- Sign will be illuminated at the lowest wattage possible.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	NO
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

August 11, 2016

THE PETITION OF: SANDRA EMPL

THE 3rd CASE CONSIDERED BY THE ZONING board of Appeals was that of the petition of Sandra Empl, 149 Wendell Street, Depew, New York 14043 for one [1] variance for the purpose of erecting a twelve [12'] by twelve [12'] foot sunroom to be built twenty five [25'] feet from the rear lot line from the existing private residence on property owned by the petitioner at 149 Wendell Street, Depew, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10C.(3) of the Code of the Town of Lancaster. The proposed addition would result in a twenty five [25'] foot rear yard setback.

Chapter 50, Zoning, Section 10C.(3)(c) of the Code of the Town of Lancaster requires a thirty five foot [35'] rear yard set back. The petitioner, therefore, requests a ten [10'] foot rear yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Sandra Empl, Petitioner	Proponent
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Ken Empl, Representing Petitioner	Proponent
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IN THE MATTER OF THE PETITION OF: SANDRA EMPL

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PIGNATARO, WHO MOVED ITS
ADOPTION, SECONDED BY MS. MONACELLI
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Sandra Empl and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of August 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, but not to the extent to preclude the granting of the area variance relief sought.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

August 11, 2016

PETITION OF: KENNETH BERG/THI TRAN

The 4th CASE CONSIDERED BY THE ZONZING Board of Appeals was that of the petition of Kenneth Berg/Thi Tran, 76 Sterling Place, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a four [4'] foot six [6"] inch high fence in a required front yard area on premises owned by the petitioners at 76 Sterling Place, Lancaster, New York 14086, to wit:

A variance from the requirements of Chapter 50 Zoning, Section 35C. of the Code of the Town of Lancaster for the purpose of erecting a four [4'] foot six [6"] high fence in a required front yard.

Chapter 50, Zoning, Section 35C.of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard area to three [3'] feet in height. The petitioners, therefore, requests a one [1'] foot, six inch [6"] fence height

The Clerk presented and entered into evidence the following items:

- Duly executed petition of the applicants with exhibits and schedules attached thereto.
- Copy of a letter notifying the petitioners of the time and place of this public hearing.
- Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Thi Tran, Petitioner	Proponent
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IN THE MATTER OF THE PETITION OF KENNETH BERG/ THI TRAN

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR.BRUSO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Keneth Berg/Thi Tran and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of August 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Residential District, (R-2) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- The fence will match the neighboring fence as specified in this variance application.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

August 11, 2016

PETITION OF: GERARD/ELLA DUNE

The 5th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Gerard/ Ella Dunne, 13 Magrum Lane, Lancaster, New York 14086, for one [1] variance for the purpose of constructing a triangular shed positioned on premises owned by Gerard/Ella Dunne at 13 Magrum Lane, Lancaster, New York; to wit:

A variance from the requirements of Chapter 50, Zoning, Section 11C.(4)(a) of the Code of the Town of Lancaster. The shed, as positioned, results in a front yard set back of thirty [30'] feet.

Chapter 50, Zoning, Section 11C.(4)(a) of the Code of the Town of Lancaster requires a thirty five [35'] foot front yard set back. The petitioners, therefore, request a five [5'] foot front yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Ella Dunne, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF GERARD/ELLA DUNNE

THE FOLLOWING RESOLUTION WAS OFFERED
BY MS. MONACELLI, WHO MOVED ITS
ADOPTION, SECONDED BY MR. BEUTLER
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Gerard/Ella Dunne and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of August 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question

WHEREAS, the property for which the applicants are petitioning is within a Residential District 2, (R-2) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

August 11, 2016

PETITION OF: A. BETSY RICHARDS

The 6th CASE CONSIDERED BY THE ZONING Board of Appeals was that of a petition of A. Betsy Richards, 36 Nichter Road, Lancaster, New York 14086 for one [1] variance for the purpose of erecting masonry walls that are four [4'] feet six [6"] inches high in a required front yard area on premises owned by the petitioner at 36 Nichter Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50 Zoning, Section 35C. of the Code of the Town of Lancaster for the purpose of erecting a four [4'] foot, six [6"] inch high masonry wall in a required front yard.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard area to three [3'] feet in height. The petitioner, therefore, requests a one [1'] foot, six [6"] inch variance for the purpose of constructing masonry walls.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

A. Betsy Richards, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: A. BESTY RICHARDS

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. SWIGONSKI, WHO MOVED ITS
ADOPTION, ECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of A. Betsy Richards and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of August 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTE**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

August 11, 2016

PETITION OF 48 FREEMAN PROPERTIES LLC c/o BARCLAY DAMON LLP

The 7th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of 48 Freeman Properties LLC c/o Barclay Damon LLP, 48 Freeman Road, Lancaster, New York for five [5] variances for the purpose of constructing a [4] story hotel and parking lot, on property owned by Hanania Family Partnership L.P. at 48 Freeman Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 19C.(5) of the Code of the Town of Lancaster. The height of the proposed hotel is fifty seven [57'] feet, four [4"] inches.

Chapter 50, Zoning, Section 19C.(5) of the Code of the Town of Lancaster limits the building height to thirty-five [35'] feet. The petitioner, therefore, requests a twenty-two [22'] foot, four [4"] inch height variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 19C (3) of the Code of the Town of Lancaster to allow for a five [5'] foot required front yard parking lot setback on the south property line.

Chapter 50, Zoning, Section 19C.(3)of the Code of the Town of Lancaster requires a twenty five [25'] foot required front yard setback, from a right-of-way of a dedicated street. The petitioner, therefore, requests a twenty [20'] foot front yard parking lot setback on the south property line.

- C. A variance from the requirements of Chapter 50, Zoning Section 19C (3) of the Code of the Town of Lancaster to allow for a five point nine [5.9] foot side yard parking lot setback on the north property line.

Chapter 50, Zoning, Section 19C.(3) of the Code of the town of Lancaster requires a ten [10'] foot side yard setback, abutting a nonresidential area. The petitioner, therefore, requests a four point one [4.1'] foot side yard parking lot setback on the north property line.

- D. A variance from the requirements of Chapter 50, Zoning, Section 19C (3) of the Code of the Town of Lancaster to allow for zero [0] foot side yard parking lot setback on the east property line.

Chapter 50, Zoning, Section 19 C.(3) of the Code of the Town of Lancaster requires a ten [10'] foot side yard setback, abutting a nonresidential area. The petitioner, therefore, requests a ten [10'] foot side yard parking lot setback on the east property line.

- E. A variance from the requirements of Chapter 50, Zoning Section 19C.(3) of the Code of the Town of Lancaster to allow for a ten point seventy four [10.74'] foot parking lot setback on the west property line.

Chapter 50, Zoning, Section 19C (3) of the Code of the Town of Lancaster requires a twenty five [25'] foot parking lot setback from a right-of-way of a dedicated street. The petitioner, therefore, requests a fourteen point twenty six [14.26'] foot parking lot setback on the west property line.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Corey Auerbach, Esq., Representing Petitioner
Barclay Damon LLP

Proponent

**IN THE MATTER OF THE PETITION OF 48 FREEMAN PROPERTIES LLC c/o
BARCLAY DAMON LLP**

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PERRY, WHO MOVED ITS
ADOPTION, SECONDED BY MR. BRUSO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of 48 Freeman Properties LLC c/o Barclay Damon LLP and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the duly authorized agent of the property owner.

WHEREAS, the property for which the applicants are petitioning is within a General Business District, (GB) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED.**

August 11, 2016

PETITION OF 5828 BROADWAY LLC

THE 8TH CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of 5828 Broadway LLC, 1120 Bullis Road, Elma, New York 14075, represented by Sean Hopkins, Esq., 5500 Main Street, Suite 343, Williamsville, NY 14221 for one [1] variance for the purpose of creating a parking area, on premises owned by the petitioner at 5828 Broadway, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 14 (G) of the Code of the Town of Lancaster. The petitioner requests a parking area on the west property line with zero [0'] foot setback.

Chapter 50, Zoning, Section 14 (G) of the Code of the Town of Lancaster requires a ten [10'] foot property line setback. The petitioner, therefore, requests a ten [10'] foot west property line variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Sean Hopkins, Representing Petitioner
Hopkins, Sorgi & Romanowski, PLLC

Proponent

IN THE MATTER OF THE PETITION OF 5828 BROADWAY LLC

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PIGNATARO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of 5828 Broadway LLC and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of August 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Multi-family Residential District 4, (MFR-4) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

August 11, 2016

PETITION OF 5828 BOADWAY, LLC

THE 9TH CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of 5828 Broadway, LLC, 1120 Bullis Road, Elma, New York 14075, represented by Sean Hopkins, Esq., Hopkins Sorgi & Romanowski PLLC, 5500 Main Street, Suite 343 Williamsville, NY 14221 for four [4] variances for the purpose of erecting four 26 unit multifamily buildings, located at 0 Broadway, Lancaster, NY 14086 on premises owned by the petitioner at 0 Broadway, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 13 and Subsection C (2) (e) of the Code of the Town of Lancaster. The height of the proposed buildings is 49 feet, 4 1/8 inches.

Chapter 50, Zoning, Section 13 and Subsection C (2) (e) of the Code of the Town of Lancaster requires a maximum building height of thirty five feet [35']. The petitioner, therefore, requests a 14 foot, 4 1/8 inch height variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 14 E (2) of the Code of the Town of Lancaster. The proposed building setback on the eastern property line is 29.66 feet.

Chapter 50, Zoning, Section 14, and Subsection E (2) of the Code of the Town of Lancaster requires a 60.45 foot building setback. The petitioner, therefore, request a 30.79 foot eastern property line building setback variance.

- C. A variance from the requirements of the Chapter 50, Zoning, Section 14, Subsection G of the Code of the Town of Lancaster. The proposed parking setback from the east property line is zero feet.

Chapter 50, Zoning, Section 14, Subsection G of the Code of the Town of Lancaster requires a minimum parking setback of ten [10'] feet. The petitioner, therefore, requests a ten [10'] foot east property line parking setback variance.

- D. A variance from the requirements of the Chapter 50, Section 14, and Subsection E (2) of the Code of the Town of Lancaster. The proposed building setback from the west property line is 46 feet.

Chapter 50, Zoning, Section 14 Subsection G of the Code of the Town of Lancaster requires a minimum building setback of 60.45 feet. The petitioner, therefore, requests a 14.45 foot western property line setback variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Sean Hopkins, Representing Petitioner
Hopkins Sorgi & Romanowski, PLLC

Proponent

IN THE MATTER OF THE PETITION OF 5828 BROADWAY LLC

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. BRUSO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. BEUTLER
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of 5828 Broadway, LLC and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of August 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Multi-family Residential District 4, (MFR-4) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

August 11, 2016

PETITION OF: RUSSELL CALDWELL

THE 10TH CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Russell Caldwell, 51 Main Street, Bowmansville, NY 14026 for one [1] variance for the purpose of constructing a garage addition to the dwelling on premises owned by the petitioner at 51 Main Street, Bowmansville, NY 14026, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(a) of the Code of the Town of Lancaster. The proposed garage addition would result in a twenty five [25'] foot front yard set back.

Chapter 50, Zoning, Section 10C.(3)(a) of the Code of the Town of Lancaster requires a thirty five [35'] foot front yard set back. The petitioner, therefore, requests a ten [10'] foot front yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Russell Caldwell, Petitioner	Proponent
Elaine Brixius, Contractor	Proponent

IN THE MATTER OF THE PETITION OF RUSSELL CALDWELL

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. SWIGONSKI, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Russell Caldwell and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of August 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential Commercial Office District, (RCO) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

August 11, 2016

PETITION OF: CHRISTOPHER REILLY

THE 11TH CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Christopher Reilly, 2 Magrum Lane, Lancaster, New York 14086 for two [2] variances for the purpose of installing a shed in a required front yard on premises owned by the petitioner at 2 Magrum Lane, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(a) of the Code of the Town of Lancaster. The proposed shed would be placed fifteen [15'] feet from the front property line within a required front yard.

Chapter 50, Zoning, Section 10C.(3)(a) of the Code of the Town of Lancaster requires a thirty five [35'] foot front yard set back. The petitioner, therefore, requests a twenty [20'] foot front yard set back variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 17A.(3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Magrum Lane with an exterior side yard [considered a front yard equivalent] fronting on Juniper Boulevard. The location of the proposed shed will result in a fifteen [15'] foot east exterior side yard set back on Juniper Boulevard.

Chapter 50, Zoning, Section 17A (2) and (3) of the Code of the Town of Lancaster requires a thirty five [35'] foot exterior side yard set back on Juniper Boulevard. The petitioner, therefore, requests a twenty [20'] foot east exterior side yard set back variance.

he Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Susan Palmer, Representing Petitioner

Proponent

IN THE MATTER OF THE PETITION OF CHRISTOPHER REILLY

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PIGNATARO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. BRUSO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Christopher Reilly and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of August 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

August 11, 2016

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting
was adjourned at 9:03 P.M.

Signed _____
Diane M. Terranova, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: August 11, 2016